

Michigan Supreme Court

People

SC # 160707

v

Gregory Carl Washington

I. Motion To File A (Brief Amicus Curiae)*

And

II. (Brief Amicus Curiae) On Behalf OF Defendant.*

* (Photo-Copies from quoted case-Laws are included inside.)

Brief Filed By : Willie Curtis, (Pro Per).
4269 M-80
Kincheloe, MI 49784



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People v. Washington, 2020 Mich. LEXIS 862

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Supreme Court of Michigan

May 1, 2020, Decided

SC: 160707

Reporter

2020 Mich. LEXIS 862 *

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v GREGORY CARL WASHINGTON, Defendant-Appellant.

Prior History: [*1] COA: 336050. Wayne CC: 04-004270-PC.

People v. Washington, 2019 Mich. App. LEXIS 5569 (Mich. Ct. App., Sept. 17, 2019)

Core Terms

appendix, subject-matter, application for leave, supplemental brief, amicus curiae, electronically

Judges: Bridget M. McCormack *, Chief Justice. David F. Viviano *, Chief Justice Pro Tem. Stephen J. Markman *, Brian K. Zahra *, Richard H. Bernstein *, Elizabeth T. Clement *, Megan K. Cavanagh *, Justices.

Opinion**Order**

On order of the Court, the application for leave to appeal the September 17, 2019 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

The appellant shall file a supplemental brief within 42 days of the date of this order addressing: (1) whether the trial court's act of resentencing the defendant while an application for leave to appeal was pending in this Court constituted a defect in subject-matter jurisdiction; and (2) if so, whether defects in subject-matter jurisdiction can be challenged in a successive motion for relief from judgment. Compare MCR 6.502(G)(2) (only permitting a second or subsequent motion for relief from judgment if it is based on a retroactive change in the law or on a claim of new evidence) and *In re J.L.*, 314 Mich. 690, 696, 725 N.W.2d 131 (1996) ("The question of jurisdiction of the subject-matter may be raised at any time."). In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations [*2] to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.

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Cite: **People v Washington 2020 Mich Lexis 862**

The Michigan Supreme Court has invited all interested persons to file a (Brief Amicus Curiae).

I am interested in this case because the outcome of (my own pending case) is hinged on the outcome of this Washington-Case 2020.

Please accept my (Brief Amicus Curiae) that I have Filed in behalf of the defendant in this Washington-case 2020.

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Date and Time: May 13, 2020 11:00:01 a.m. CDT

Document: People v. Curtis, 2020 Mich. App. LEXIS 2629

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People v. Curtis, 2020 Mich. App. LEXIS 2629

Copy Citation

Court of Appeals of Michigan

April 7, 2020, Decided

Docket No. 351657

Reporter

2020 Mich. App. LEXIS 2629 *

People of MI v Willie Beasley Curtis

Prior History: [*1] LC No. 05-000421-FH.

People v. Curtis, 501 Mich. 1037, 909 N.W.2d 251, 2018 Mich. LEXIS 609 (Apr. 3, 2018)

Counsel: For PEOPLE OF MI, PLAINTIFF-APPELLEE: INGHAM COUNTY PROSECUTOR.

WILLIE BEASLEY CURTIS, DEFENDANT-APPELLANT, Pro se.

Judges: Thomas C. Cameron ✕, Presiding Judge. Kirsten Frank Kelly ✕, Michael J. Ruordan ✕, Judges.

Opinion

ORDER

The Court GRANTS the motion to waive fees for this case only.

The Court DISMISSES the application for leave to appeal and accompanying motions for immediate consideration, to remand, and for peremptory reversal. Defendant has failed to demonstrate the entitlement to an application of any of the exceptions to the general rule that a movant may not appeal the denial of a successive motion for relief from judgment. MCR 6.502(G).

Content Type: Cases

Terms: 2020 mich app lexis 2629

Narrow By: Sources: Sources

cite: People v Curtis 2020 Mich App Lexis 2629

- My name is Willie Curtis.
This is my own case. I have an appeal
pending in the Michigan Supreme Court.
- In my case, I raised a jurisdictional-defect
challenge under MCR 6.502(G)(2).
- My trial-court denied my case saying
that I am procedurally barred by
MCR 6.502(G)(2), because OF the decision
made in People v Washington 2019 Mich
App Lexis 5569.
- Thus, my case hangs on the decision
that will be made in the pending case
People v Washington 2020 Mich Lexis 862

☐ Hence, if defendant-Washington wins in
People v Washington 2020 Mich Lexis 862, then (1)
defendant-Curtis also win, which entitles me
to relief from the Michigan Supreme Court

I. MOTION

Motion Requesting Permission To
File A (Brief Amicus Curiae).

The Michigan Supreme Court has invited all interested persons to file a (Brief Amicus Curiae) in this case. I am interested in this case because my own-case, People v Curtis COA# 351657, is based on me bringing a jurisdictional challenge, which was granted by my trial-court pursuant to People v Washington 321 Mich App 276. But then, although my case was initially granted, my trial-court turned around and denied me under the newer-case People v Washington 2019 Mich App Lexis 5569.

See, People v Curtis 2020 Mich App Lexis 2629.

Please, I am not a lawyer. All I ask this court to do is really read this Brief and give it a fair chance!

I humbly ask this court to grant this motion, by accepting my (Brief Amicus Curiae) on behalf of the (defendant).

II. BRIEF AMICUS CURIAE

My Brief Amicus Curiae

My Brief Amicus Curiae now follows.....

QUESTION

Michigan Supreme Court's Question
To The Parties OF The Washington-Case 2020

In the newly pending Washington-Case 2020, the Michigan Supreme Court posed the following question:

[Q]: Does court-rule MCR 6.502(G)(2) prohibit a defendant from challenging a court's jurisdiction at any time ?

ANSWER

My Answer To The Question
Posed By The Michigan Supreme
Court In The Washington-Case 2020.

I now provide the following Answer to the question posed by the Michigan Supreme Court In the Washington-case 2020 :

[A]: My answer is no! The court-rule MCR 6.502(G)(2) Does not prohibit a defendant from challenging a court's jurisdiction at any time !

→ Morales-v.-Mich..Parole.Bd., 260 Mich. App. 29, 676 N.W.2d 221, 2003 Mich. App. LEXIS 3223

HN13 We do not disagree that the Parole Board, as an entity within the Department of Corrections possessing exclusive discretion to grant or deny parole, is charged with making decisions in accordance with the law. MCL 791.204; MCL 791.231 et seq.; Jones v Department of Corrections, 468 Mich. 646, 652; 664 N.W.2d 717 (2003); Hopkins, supra, 237 Mich. App. 636-637. [*39] But, the circuit court ignored the holding of Hopkins, supra. Respondent correctly cites Hopkins, supra, 237 Mich. App. at 639, for the proposition that an inmate may not appeal under the RJA because Const 1963, art 6, § 28 restricts judicial review to those final decisions, findings, rulings, [***13] and orders affecting private rights or licenses.

In Hopkins, supra, 237 Mich. App. at 639, this Court addressed a circuit court's abuse of its discretion in reversing the Parole Board's decision denying parole. In examining the Parole Board's discretionary determinations concerning whether to grant parole, this Court held that "the constitutional standard of review does not apply to this case, which involves neither a decision affecting a private right or license nor an evidentiary hearing." *Id.* We agree that there is no right at issue because a prisoner has no right to parole. "A prisoner enjoys no constitutional or inherent right to be conditionally released from a validly imposed sentence." Jones, supra, 468 Mich. at 651 citing Greenholtz v Inmates of Nebraska Penal & Correctional Complex, 442 U.S. 1, 7; 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979) and People v Malmquist, 155 Mich. App. 521; 400 N.W.2d 317 (1986).

Importantly, **HN14** MCL 600.631 states specifically that appeals under the RJA "shall be made in accordance with the rules of the supreme court." As mentioned above, our Supreme Court [***14] has amended the court rule, MCR 7.104(D) effective March 10, 2000, eliminating any reference to inmate appeals of Parole Board decisions. This being the case, we can envision no scenario where a prisoner could appeal the Parole Board's decision under the RJA "in accordance with [*40] the rules of the supreme court" when the court rules do not provide for such an appeal.

Despite petitioners' contentions, the legality of petitioners' detention is not insulated from judicial oversight. Admittedly, statutory review is no longer provided for, this is not a contested case under the APA, and review under the RJA is precluded because there is no private right or license at issue. However, **HN15** a prisoner's right to file a complaint for habeas corpus is guaranteed by the Michigan Constitution. Hinton v Parole Bd, 148 Mich. App. 235, 244; 383 N.W.2d 626 (1986), citing Const.1963, art 1, § 12. Regarding an action for habeas corpus, this Court has stated that

HN16 [a] complaint for habeas corpus is designed to test the legality of detaining an individual and restraining him of his [***230] liberty. In re Huber, 334 Mich. 100; 53 N.W.2d 609 (1952); [***15] Trayer v Kent County Sheriff, 104 Mich. App. 32; 304 N.W.2d 11 (1981). If a legal basis for detention is lacking, a judge must order the release of the detainee from confinement. MCL 600.4352; MSA 27A.4352. However, the writ of habeas corpus deals only with radical defects which render a judgment or proceeding absolutely void. In re Stone, 295 Mich. 207; 294 NW 156 (1940); Walls v Director of Institutional Services, 84 Mich. App. 355; 269 N.W.2d 599 (1978). 'A radical (defect in jurisdiction) contemplates . . . an act or omission by state authorities that clearly contravenes an express legal requirement in existence at the time of the act or omission.' People v Price, 23 Mich. App. 663, 671; 179 N.W.2d 177 (1970). [Hinton, supra, 148 Mich. App. 244-245.]

Therefore, under certain radical circumstances, a prisoner has a right to file a complaint for habeas corpus. Although not a completely exhaustive list, in the unlikely scenario where the Parole Board has denied a prisoner parole exclusively on the basis of [*41] his race, religion,

• The above case is the Morales-Case.

→ The Habeas Corpus clause, of the Michigan Constitution, reflects the Michigan legal-principle, that a defendant has an absolute right to challenge a court's jurisdiction at any time.

→ 2010.Mich.App.LEXIS.796..*6

Wynn, 197 Mich App 509, 511; 496 NW2d 799 (1992), the [*5] trial court dismissed criminal charges against a defendant, then reinstated the charges on the prosecution's motion. MCR 2.612 was referenced in that case as follows:

In reversing its prior decision to dismiss the charges, the trial court recognized its error in usurping the charging authority of the prosecutor. *People v Farmer*, 193 Mich App 400; 484 NW2d 407 (1992); *People v Jackson*, 192 Mich App 10, 15; 480 NW2d 283 (1991); MCR 2.612(C)(1)(a). *Id.* (emphasis added).

Subrule (C)(1)(a) permits relief from judgment where there has been "mistake, inadvertence, surprise, or excusable neglect." Though the basis for relief in the present case is MCR 2.612(C)(1)(c), as opposed to MCR 2.16(C)(1)(a) or (b) as referenced in the above cited cases, there is no reason to find that all of the grounds for relief from judgment, set forth in MCR 2.612(C)(1) cannot be used in criminal cases. Where one basis is found to be applicable, it logically follows that another basis found in the same court rule is equally applicable. Based upon the above, we find that MCR 6.001(D)(2) is inapplicable in the present matter.

- The above case is the Schultz-case.

→ Under the Schultz-Case, a criminal-defendant can use the court-rule MCR 2.612(C)(1)(d) .

(The MCR 2.612(c)(1)(d) Argument, continues, next page) →

△ Caution
As of: May 22, 2020 6:08 PM Z

Banner v. Banner

Court of Appeals of Michigan

February 8, 1973, Submitted Division Three ; February 22, 1973, Decided

Docket No. 13211

Reporter

(45 Mich. App. 1483; 206 N.W.2d 234 **; 1973 Mich. App. LEXIS 1068 ***

LexisNexis® Headnotes

Civil Procedure > Judgments > Relief From
Judgments > Void Judgments

HN4[↑] Relief From Judgments, Void Judgments

A court may at any time relieve a party from a void
judgment.

Civil Procedure > ... > Subject Matter
Jurisdiction > Jurisdiction Over Actions > General
Overview

Civil Procedure > Judgments > Relief From
Judgments > Void Judgments

Headnotes/Summary

Headnotes

5. Judgment -- Void Judgment -- Relief.

A court may at any time relieve a party from a void
judgment (GCR 1963, 528.3(4)).

Opinion

HN3[↑] Provided he acts within a reasonable time, a party may commence an independent equitable action to be relieved from a judgment procured by fraud upon the court. GCR 1963, 528.3(3); 3 Honigman & Hawkins, Michigan Court Rules Annotated (2d ed), pp 191-193; Baum [***9] v Baum, 20 Mich App 68, 76 (1969). Finally, HN4[↑] a court may at any time relieve a party from a void judgment GCR 1963, 528.3(4); 3 Honigman & Hawkins, Michigan Court Rules Annotated (2d ed), p 190.

End of Document

- The above case is the **Banner-Case**.
- GCR 528.3(4) is now called MCR 2.612(c)(1)(d).
- Under the Schultz-case, a criminal-defendant can use MCR 2.612(c)(1)(d).
- Thus, through the Schultz-case, under the above Banner-case, a criminal can use MCR 2.612(c)(1)(d) to challenge a court's



HN9 Rule 60(c) allows a new cause of action in equity to set aside a judgment on grounds given in the rule. Morrison v. McCarrell, 80 Ariz. 243, [*289] 295 P.2d 1088, 1091 (Ariz. 1956). Further, the same court has recognized that a judgment entered in violation of due process of law may be void. See Phoenix Metals v. Roth, 79 Ariz. 106, 284 P.2d 645, 648 [**28] (Ariz. 1955). And there is no time limit in which relief from a void [***19] judgment or order must be sought. Martin v. Martin, 182 Ariz. 11, 893 P.2d 11, 14 (Ariz. Ct. App. 1994).

[**29] Consequently, we conclude that neither the dismissal with prejudice by the court in the second Arizona federal action, nor the judgment of the Pima County Superior Court, precludes a separate, subsequent claim raising the Fourteenth Amendment allegations raised here that occurred or were discovered after April 10, 1995. However, the dismissal with prejudice in the second Arizona federal action *did* bar future claims that were, or could have been, litigated therein: for example, the validity of the 1989 Ohio divorce action, the claim that the Pima County judgment violated the Full Faith and Credit Act, the § 1983 suit against Chalker, or the Electronic Communications Act count (which was not included in the second Arizona federal action, but could have been, as it was based on events occurring in October and November of 1994, before the filing of the complaint).

2

The § 1983 and § 1985 Claims Against Chalker's Attorneys

At the September 29, 1995 hearing, Judge Manos emphatically rejected the claim that Chalker's attorneys were state actors against whom an allegation of deprivation of constitutional rights under color of law could be properly lodged. He was correct [**30] in so concluding. See Polk County v. Dodson, 454 U.S. 312, 318, 70 L. Ed. 2d 509, 102 S. Ct. 445 (1981); Bilal v. Kaplan, 904 F.2d 14, 15 (8th Cir. 1990); Lindley v. Amoco Production Co., 639 F.2d 671, 673 (10th Cir. 1981); Cooper v. Wilson, 309 F.2d 153, 154 (6th Cir. 1962); Kenney v. Fox, 232 F.2d 288 (6th Cir. 1956). Although the district court's written order did not repeat the decision orally announced on this score, we now dismiss with prejudice Catz's claims against Chalker's attorneys under § 1983 and § 1985 for failure to state a claim upon which relief could be granted. FED. R. CIV. P. 12(b)(6).

Therefore, the dismissal with prejudice by the district court in No. 96-3114 is AFFIRMED in part and REVERSED in part. [***20]

• The above case is the Catz-Case.

→ Under the Catz-Case, a defendant has a right to challenge a court's jurisdiction at any time.

⚠ Caution
As of: May 22, 2020 6:14 PM Z

United Student Aid Funds, Inc. v. Espinosa

Supreme Court of the United States

December 1, 2009, Argued; March 23, 2010, Decided

No. 08-1134

Reporter

559 U.S. 260, 130 S. Ct. 1367 **, 176 L. Ed. 2d 158 ***, 2010 U.S. LEXIS 2750 ****, 78 U.S.L.W. 4207; 63 Collier Bankr. Cas. 2d (MB) 428; 52 Bankr. Ct. Dec. 254; Bankr. L. Rep. (CCH) P81,716; 76 Fed. R. Serv. 3d (Callaghan) 364; 22 Fla. L. Weekly Fed. S 173

UNITED STUDENT AID FUNDS, INC., Petitioner v.
FRANCISCO J. ESPINOSA

LexisNexis® Headnotes

HN7 Relief From Judgments, Void Judgments

A void judgment is a legal nullity. Although the term "void" describes a result, rather than the conditions that render a judgment unenforceable, it suffices to say that a void judgment is one so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final. The list of such infirmities is exceedingly short; otherwise, Fed. R. Civ. P. 60(b)(4)'s exception to finality would swallow the rule.

Headnotes

JUDGMENT §21 JUDGMENT §289 > VALIDITY – FINALITY

> Headnote:

LEdHN7 [7]

A void judgment is a legal nullity. Although the term "void" describes a result, rather than the conditions that render a judgment unenforceable, it suffices to say that a void judgment is one so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final. The list of such infirmities is exceedingly short; otherwise, Fed. R. Civ. P. 60(b)(4)'s exception to finality would swallow the rule.

Opinion

[**1377] HN7 [7] LEdHN7 [7] [7] A void judgment is a legal nullity. See Black's Law Dictionary 1822 (3d ed. 1933); see also *id.*, at 1709 (9th ed. 2009). Although the term "void" describes a result, rather than [****19] the conditions that render a judgment unenforceable, it suffices to say that a void judgment is one so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final. See Restatement (Second) of Judgments 22 (1980); see generally *id.*, § 12. The list of such infirmities is exceedingly short; otherwise, Rule 60(b)(4)'s exception to finality would swallow the rule.

End of Document

• The above case is the Espinosa-Case.

↗ • Under the Espinosa-Case, a defendant has a right to challenge a court's jurisdiction at any time.

ARGUMENT

The Principle That A Defendant Has
The Right To Challenge A Court's
Jurisdiction At Any Time Is Reflected
In Michigan's Habeas Corpus Constitutional
Clause.
Mich. Const. 1963 Art. 1 § 12

In Michigan, a defendant's right to challenge a court's jurisdiction at any time, is a constitutional principle that is reflected in Michigan's habeas corpus clause. Mich. Const. Art. 1 § 12. The Morales-case held: "A prisoner's right to file a complaint for habeas corpus is guaranteed by the Michigan Constitution" (Morales v Mich. Parole Bd. 260 Mich App 29). I ask this court to analyze the principle of the habeas corpus clause. In Michigan, a habeas corpus can only be used for one purpose, which is to challenge a court's jurisdiction at any time. So, the drafters of the Michigan Constitution thought that the principle of being able to challenge a court's jurisdiction at any time was so important that they created the habeas corpus clause. I assert that habeas corpus is merely a vehicle in which a defendant can challenge a court's jurisdiction at any time. I further assert that the principle behind the habeas corpus clause, which is the right to challenge a court's jurisdiction at any time, is deeply rooted in Michigan's Constitution. Thus, in Michigan, no matter if its by habeas corpus, MCR 6.502(G)(2), or MCR 2.612(C)(1)(d), a defendant has an absolute right to challenge a court's jurisdiction at any time, and that right does not diminish!

MCR 2.612(c)(1)(d) Can Be Used In Criminal Cases Pursuant To People v Schultz 2010 Mich App Lexis 796.

MCR 2.612(c)(1)(d) is a civil court-rule. But, although it is a civil court-rule, MCR 2.612(c)(1)(d) can still be used in criminal cases. The Schultz-case held: "There is no reason to find that all of the grounds for relief from judgment set forth in MCR 2.612(c)(1)(d) cannot be used in criminal cases". (People v Schultz 2010 Mich App Lexis 796).

Now, having shown that MCR 2.612(c)(1)(d) can be used in criminal cases, I now apply MCR 2.612(c)(1)(d) to the present case.

A Defendant Can Use MCR 2.612(c)(1)(d) To Challenge A Court's Jurisdiction At Any Time.

A defendant's right to challenge a court's jurisdiction at any time is also embodied in MCR 2.612(c)(1)(d).

The Banner-case held: "A court may at any time relieve a party from a void judgment." (Banner v Banner 45 Mich App 148).

Also, the Federal-court recognizes a defendant's right to challenge a court's a jurisdiction at any time.

The Catz-case held: "There is no time limit in which relief from a void judgment or order must be sought." (Catz v Chalker 142 F3d 279)

The Espinosa-case held: "A void judgment is one so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final." (United Student Aid Funds, Inc v. Espinosa 559 U.S. 260).

Conclusion

In sum, a defendant has an absolute Michigan Constitutional right to challenge a court's jurisdiction at any time.

Relief

I ask for relief in this matter because ~~my case is tied to the outcome of People v Washington 2020 Mich Lexis 862.~~

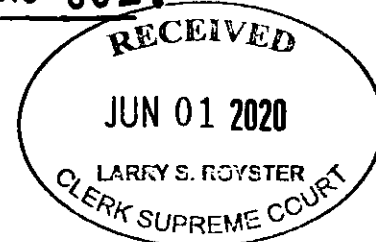
My case is newly filed in the Michigan Supreme Court. As such, my case does not have a Michigan Supreme Court case-number yet. As of now, my case is known as : People v Curtis COA#351657.

★ I ask this court to grant the following relief :

#1. Please search the Michigan Supreme Court 2020 case files for my newly filed application. People v Curtis COA#351657.

#2. Grant my case, People v Curtis COA#351657, abeyance under People v Washington 2020 Mich Lexis 862.

Proof OF Service



I mailed this (brief) to the (court) and (Prosecutor) on :
May 28, 2020

Willie Curtis 5/28/20

TO: Court Clerk

RE: Brief Amicus Curiae.

Michigan Supreme Court Case: SC#160707

People v Washington

SC # 160707

Dear Clerk,

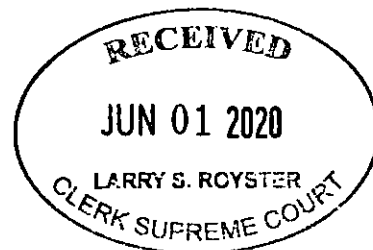
I am not Mr. Washington!

However, I am now filing a Brief Amicus Curiae on
the behalf of Mr. Washington.

Please file enclosed:

*1. Brief Amicus Curiae. (13 pages)

★ Please send to me, (Willie Curtis),
a letter saying that my Brief
was filed.



Willie Curtis #492630
4269 M-80
Kincheloe, MI 49784